

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

REC'D 21 JUL 2005

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## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:  
DEAN A. ERSFELD  
OFFICE OF INTELLECTUAL PROPERTY COUNSEL  
POST OFFICE BOX 33427  
SAINT PAUL, MN 55133-3427

Date of mailing  
(day/month/year) . 19 JUL 2005

Applicant's or agent's file reference

58884WO008

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US04/26158

International filing date (day/month/year)

12 August 2004 (12.08.2004)

Priority date (day/month/year)

12 August 2003 (12.08.2003)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): A61K 31/437, 31/4375, 31/4745; C07D 471/04, 471/14; A61P 31/12, 37/02 and US CL: 514/293, 303; 546/82, 118

Applicant

3M INNOVATIVE PROPERTIES COMPANY

### 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

### 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US

Mail Stop PCT, Attn: ISA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Authorized officer

Evelyn Huang

Telephone No. 571-278/1600

Form PCT/ISA/237 (cover sheet) (January 2004)

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/26158

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

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Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has:
- ☒ paid additional fees
  - ☐ paid additional fees under protest
  - ☐ not paid additional fees
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
  - ☒ not complied with for the following reasons:  
See the lack of unity section of the International Search Report (Form PCT/ISA/210)

4. Consequently, this opinion has been established in respect of the following parts of the international application:
- ☐ all parts.
  - ☒ the parts relating to claims Nos. 52-63 and claims 1-51, 64-128, 134, 135 in part

WRITTEN OPINION OF THE  
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International application No.  
PCT/US04/26158

**Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims <u>1-128, 134, 135</u>	YES
	Claims <u>NONE</u>	NO
Inventive step (IS)	Claims <u>1-128, 134, 135</u>	YES
	Claims <u>NONE</u>	NO
Industrial applicability (IA)	Claims <u>1-128, 134, 135</u>	YES
	Claims <u>NONE</u>	NO

**2. Citations and explanations:**

Claims 1-128, 134, 135 meet the criteria set out in PCT Article 33(2)-(3), because the prior art only teaches amidoether, amido, sulfonamide or sulfamide substituted imidazo-containing compound, and does not teach or fairly suggest the instant hydroxylamine substituted imidozo-containing compound.

Claims 1-128, 134, 135 meet the criteria set out in PCT Article 33(4), and thus find industrial applicability because the subject matter claimed can be made or used in the pharmaceutical industry as an inducer of cytokine biosynthesis.